

Introduced by Senators Perata and Peace

February 22, 2001

An act to amend Sections 12020 and 12280 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as introduced, Perata. Large-capacity magazines.

Existing law, except as provided, generally prohibits the manufacturing, causing to be manufactured, importation into the state, keeping, offering or exposing for sale, giving, or lending, of any large-capacity magazine. Existing law also defines "large-capacity magazine" and specifies certain magazines that are not included within the definition.

This bill would exempt the manufacture of a large-capacity magazine for certain law enforcement agents, peace officers, and firearms licensees.

This bill would, in addition, specify additional magazines that are not included within the definition of "large-capacity magazine."

Existing law makes it an offense, with specified exceptions, to possess an assault weapon, as defined.

This bill would provide additional exceptions to the offense of possessing an assault weapon, regarding the loan at a target range of an assault weapon by a retired peace officer, as specified, and receipt and possession of an assault weapon by certain peace officers, if those officers register the assault weapon, as specified.

By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12020 of the Penal Code is amended to
2 read:

3 12020. (a) Any person in this state who does any of the
4 following is punishable by imprisonment in a county jail not
5 exceeding one year or in the state prison:

6 (1) Manufactures or causes to be manufactured, imports into
7 the state, keeps for sale, or offers or exposes for sale, or who gives,
8 lends, or possesses any cane gun or wallet gun, any undetectable
9 firearm, any firearm which is not immediately recognizable as a
10 firearm, any camouflaging firearm container, any ammunition
11 which contains or consists of any fléchette dart, any bullet
12 containing or carrying an explosive agent, any ballistic knife, any
13 multiburst trigger activator, any nunchaku, any short-barreled
14 shotgun, any short-barreled rifle, any metal knuckles, any belt
15 buckle knife, any leaded cane, any zip gun, any shuriken, any
16 unconventional pistol, any lipstick case knife, any cane sword, any
17 shobi-zue, any air gauge knife, any writing pen knife, any metal
18 military practice handgrenade or metal replica handgrenade, or
19 any instrument or weapon of the kind commonly known as a
20 blackjack, slungshot, billy, sandclub, sap, or sandbag.

21 (2) Commencing January 1, 2000, manufactures or causes to be
22 manufactured, imports into the state, keeps for sale, or offers or
23 exposes for sale, or who gives, or lends, any large-capacity
24 magazine.

25 (3) Carries concealed upon his or her person any explosive
26 substance, other than fixed ammunition.



(4) Carries concealed upon his or her person any dirk or dagger. However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the

1 year 1898) and also any firearm using fixed ammunition
2 manufactured in or before 1898, for which ammunition is no
3 longer manufactured in the United States and is not readily
4 available in the ordinary channels of commercial trade.

5 (6) Tracer ammunition manufactured for use in shotguns.

6 (7) Any firearm or ammunition which is a curio or relic as
7 defined in Section 178.11 of Title 27 of the Code of Federal
8 Regulations and which is in the possession of a person permitted
9 to possess the items pursuant to Chapter 44 (commencing with
10 Section 921) of Title 18 of the United States Code and the
11 regulations issued pursuant thereto. Any person prohibited by
12 Section 12021, 12021.1, or 12101 of this code or Section 8100 or
13 8103 of the Welfare and Institutions Code from possessing
14 firearms or ammunition who obtains title to these items by bequest
15 or intestate succession may retain title for not more than one year,
16 but actual possession of these items at any time is punishable
17 pursuant to Section 12021, 12021.1, or 12101 of this code or
18 Section 8100 or 8103 of the Welfare and Institutions Code. Within
19 the year, the person shall transfer title to the firearms or
20 ammunition by sale, gift, or other disposition. Any person who
21 violates this paragraph is in violation of subdivision (a).

22 (8) Any other weapon as defined in subsection (e) of Section
23 5845 of Title 26 of the United States Code and which is in the
24 possession of a person permitted to possess the weapons pursuant
25 to the federal Gun Control Act of 1968 (Public Law 90-618), as
26 amended, and the regulations issued pursuant thereto. Any person
27 prohibited by Section 12021, 12021.1, or 12101 of this code or
28 Section 8100 or 8103 of the Welfare and Institutions Code from
29 possessing these weapons who obtains title to these weapons by
30 bequest or intestate succession may retain title for not more than
31 one year, but actual possession of these weapons at any time is
32 punishable pursuant to Section 12021, 12021.1, or 12101 of this
33 code or Section 8100 or 8103 of the Welfare and Institutions Code.
34 Within the year, the person shall transfer title to the weapons by
35 sale, gift, or other disposition. Any person who violates this
36 paragraph is in violation of subdivision (a). The exemption
37 provided in this subdivision does not apply to pen guns.

38 (9) Instruments or devices that are possessed by federal, state,
39 and local historical societies, museums, and institutional
40 collections which are open to the public, provided that these



1 instruments or devices are properly housed, secured from
2 unauthorized handling, and, if the instrument or device is a
3 firearm, unloaded.

4 (10) Instruments or devices, other than short-barreled shotguns
5 or short-barreled rifles, that are possessed or utilized during the
6 course of a motion picture, television, or video production or
7 entertainment event by an authorized participant therein in the
8 course of making that production or event or by an authorized
9 employee or agent of the entity producing that production or event.

10 (11) Instruments or devices, other than short-barreled shotguns
11 or short-barreled rifles, that are sold by, manufactured by, exposed
12 or kept for sale by, possessed by, imported by, or lent by persons
13 who are in the business of selling instruments or devices listed in
14 subdivision (a) solely to the entities referred to in paragraphs (9)
15 and (10) when engaging in transactions with those entities.

16 (12) The sale to, possession of, or purchase of any weapon,
17 device, or ammunition, other than a short-barreled rifle or
18 short-barreled shotgun, by any federal, state, county, city and
19 county, or city agency that is charged with the enforcement of any
20 law for use in the discharge of their official duties, or the
21 possession of any weapon, device, or ammunition, other than a
22 short-barreled rifle or short-barreled shotgun, by peace officers
23 thereof when on duty and the use is authorized by the agency and
24 is within the course and scope of their duties.

25 (13) Weapons, devices, and ammunition, other than a
26 short-barreled rifle or short-barreled shotgun, that are sold by,
27 manufactured by, exposed or kept for sale by, possessed by,
28 imported by, or lent by, persons who are in the business of selling
29 weapons, devices, and ammunition listed in subdivision (a) solely
30 to the entities referred to in paragraph (12) when engaging in
31 transactions with those entities.

32 (14) The manufacture for, sale to, exposing or keeping for sale
33 to, importation of, or lending of wooden clubs or batons to special
34 police officers or uniformed security guards authorized to carry
35 any wooden club or baton pursuant to Section 12002 by entities
36 that are in the business of selling wooden batons or clubs to special
37 police officers and uniformed security guards when engaging in
38 transactions with those persons.

39 (15) Any plastic toy handgrenade, or any metal military
40 practice handgrenade or metal replica handgrenade that is a relic,

1 curio, memorabilia, or display item, that is filled with a permanent
2 inert substance or that is otherwise permanently altered in a
3 manner that prevents ready modification for use as a grenade.

4 (16) Any instrument, ammunition, weapon, or device listed in
5 subdivision (a) that is not a firearm that is found and possessed by
6 a person who meets all of the following:

7 (A) The person is not prohibited from possessing firearms or
8 ammunition pursuant to Section 12021 or 12021.1 or paragraph
9 (1) of subdivision (b) of Section 12316 of this code or Section 8100
10 or 8103 of the Welfare and Institutions Code.

11 (B) The person possessed the instrument, ammunition,
12 weapon, or device no longer than was necessary to deliver or
13 transport the same to a law enforcement agency for that agency's
14 disposition according to law.

15 (C) If the person is transporting the listed item, he or she is
16 transporting the listed item to a law enforcement agency for
17 disposition according to law.

18 (17) Any firearm, other than a short-barreled rifle or
19 short-barreled shotgun, that is found and possessed by a person
20 who meets all of the following:

21 (A) The person is not prohibited from possessing firearms or
22 ammunition pursuant to Section 12021 or 12021.1 or paragraph
23 (1) of subdivision (b) of Section 12316 of this code or Section 8100
24 or 8103 of the Welfare and Institutions Code.

25 (B) The person possessed the firearm no longer than was
26 necessary to deliver or transport the same to a law enforcement
27 agency for that agency's disposition according to law.

28 (C) If the person is transporting the firearm, he or she is
29 transporting the firearm to a law enforcement agency for
30 disposition according to law.

31 (D) Prior to transporting the firearm to a law enforcement
32 agency, he or she has given prior notice to that law enforcement
33 agency that he or she is transporting the firearm to that law
34 enforcement agency for disposition according to law.

35 (E) The firearm is transported in a locked container as defined
36 in subdivision (d) of Section 12026.2.

37 (18) The possession of any weapon, device, or ammunition, by
38 a forensic laboratory or any authorized agent or employee thereof
39 in the course and scope of his or her authorized activities.



1 (19) The sale of, giving of, lending of, importation into this
2 state of, or purchase of, any large-capacity magazine to or by any
3 federal, state, county, city and county, or city agency that is
4 charged with the enforcement of any law, for use by agency
5 employees in the discharge of their official duties whether on or
6 off duty, and where the use is authorized by the agency and is
7 within the course and scope of their duties.

8 (20) The sale to, lending to, transfer to, purchase by, receipt of,
9 or importation into this state of, a large capacity magazine by a
10 sworn peace officer as defined in Chapter 4.5 (commencing with
11 Section 830) of Title 3 of Part 2 who is authorized to carry a firearm
12 in the course and scope of his or her duties.

13 (21) The sale or purchase of any large-capacity magazine to or
14 by a person licensed pursuant to Section 12071.

15 (22) The loan of a lawfully possessed large-capacity magazine
16 between two individuals if all of the following conditions are met:

17 (A) The person being loaned the large-capacity magazine is not
18 prohibited by Section 12021, 12021.1, or 12101 of this code or
19 Section 8100 or 8103 of the Welfare and Institutions Code from
20 possessing firearms or ammunition.

21 (B) The loan of the large-capacity magazine occurs at a place
22 or location where the possession of the large-capacity magazine is
23 not otherwise prohibited and the person who lends the
24 large-capacity magazine remains in the accessible vicinity of the
25 person to whom the large-capacity magazine is loaned.

26 (23) The importation of a large-capacity magazine by a person
27 who lawfully possessed the large-capacity magazine in the state
28 prior to January 1, 2000, lawfully took it out of the state, and is
29 returning to the state with the large-capacity magazine previously
30 lawfully possessed in the state.

31 (24) The lending or giving of any large-capacity magazine to
32 a person licensed pursuant to Section 12071, or to a gunsmith, for
33 the purposes of maintenance, repair, or modification of that
34 large-capacity magazine.

35 (25) The return to its owner of any large-capacity magazine by
36 a person specified in paragraph (24).

37 (26) The importation into this state of, or sale of, any
38 large-capacity magazine by a person who has been issued a permit
39 to engage in those activities pursuant to Section 12079, when those

1 activities are in accordance with the terms and conditions of that
2 permit.

3 (27) The sale of, giving of, lending of, importation into this
4 state of, or purchase of, any large-capacity magazine, to or by
5 entities that operate armored vehicle businesses pursuant to the
6 laws of this state.

7 (28) The lending of large-capacity magazines by the entities
8 specified in paragraph (27) to their authorized employees, while
9 in the course and scope of their employment for purposes that
10 pertain to the entity's armored vehicle business.

11 (29) The return of those large-capacity magazines to those
12 entities specified in paragraph (27) by those employees specified
13 in paragraph (28).

14 (30) (A) *The manufacture of a large-capacity magazine for*
15 *any federal, state, county, city and county, or city agency that is*
16 *charged with the enforcement of any law, for use by agency*
17 *employees in the discharge of their official duties whether on or off*
18 *duty, and where the use is authorized by the agency and is within*
19 *the course and scope of their duties.*

20 (B) *The manufacture of a large-capacity magazine for use by*
21 *a sworn peace officer as defined in Chapter 4.5 (commencing with*
22 *Section 830) of Title 3 of Part 2 who is authorized to carry a firearm*
23 *in the course and scope of his or her duties.*

24 (C) *The manufacture of a large-capacity magazine for a person*
25 *licensed pursuant to Section 12071.*

26 (c) (1) As used in this section, a "short-barreled shotgun"
27 means any of the following:

28 (A) A firearm which is designed or redesigned to fire a fixed
29 shotgun shell and having a barrel or barrels of less than 18 inches
30 in length.

31 (B) A firearm which has an overall length of less than 26 inches
32 and which is designed or redesigned to fire a fixed shotgun shell.

33 (C) Any weapon made from a shotgun (whether by alteration,
34 modification, or otherwise) if that weapon, as modified, has an
35 overall length of less than 26 inches or a barrel or barrels of less
36 than 18 inches in length.

37 (D) Any device which may be readily restored to fire a fixed
38 shotgun shell which, when so restored, is a device defined in
39 subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, which measures



1 approximately one inch in length, with tail fins which take up
2 five-sixteenths of an inch of the body.

3 (7) As used in this section, “metal knuckles” means any device
4 or instrument made wholly or partially of metal which is worn for
5 purposes of offense or defense in or on the hand and which either
6 protects the wearer’s hand while striking a blow or increases the
7 force of impact from the blow or injury to the individual receiving
8 the blow. The metal contained in the device may help support the
9 hand or fist, provide a shield to protect it, or consist of projections
10 or studs which would contact the individual receiving a blow.

11 (8) As used in this section, a “ballistic knife” means a device
12 that propels a knifelike blade as a projectile by means of a coil
13 spring, elastic material, or compressed gas. Ballistic knife does not
14 include any device which propels an arrow or a bolt by means of
15 any common bow, compound bow, crossbow, or underwater spear
16 gun.

17 (9) As used in this section, a “camouflaging firearm
18 container” means a container which meets all of the following
19 criteria:

20 (A) It is designed and intended to enclose a firearm.

21 (B) It is designed and intended to allow the firing of the
22 enclosed firearm by external controls while the firearm is in the
23 container.

24 (C) It is not readily recognizable as containing a firearm.

25 “Camouflaging firearm container” does not include any
26 camouflaging covering used while engaged in lawful hunting or
27 while going to or returning from a lawful hunting expedition.

28 (10) As used in this section, a “zip gun” means any weapon or
29 device which meets all of the following criteria:

30 (A) It was not imported as a firearm by an importer licensed
31 pursuant to Chapter 44 (commencing with Section 921) of Title 18
32 of the United States Code and the regulations issued pursuant
33 thereto.

34 (B) It was not originally designed to be a firearm by a
35 manufacturer licensed pursuant to Chapter 44 (commencing with
36 Section 921) of Title 18 of the United States Code and the
37 regulations issued pursuant thereto.

38 (C) No tax was paid on the weapon or device nor was an
39 exemption from paying tax on that weapon or device granted under
40 Section 4181 and subchapters F (commencing with Section 4216)

1 and G (commencing with Section 4221) of Chapter 32 of Title 26
2 of the United States Code, as amended, and the regulations issued
3 pursuant thereto.

4 (D) It is made or altered to expel a projectile by the force of an
5 explosion or other form of combustion.

6 (11) As used in this section, a “shuriken” means any
7 instrument, without handles, consisting of a metal plate having
8 three or more radiating points with one or more sharp edges and
9 designed in the shape of a polygon, trefoil, cross, star, diamond,
10 or other geometric shape for use as a weapon for throwing.

11 (12) As used in this section, an “unconventional pistol” means
12 a firearm that does not have a rifled bore and has a barrel or barrels
13 of less than 18 inches in length or has an overall length of less than
14 26 inches.

15 (13) As used in this section, a “belt buckle knife” is a knife
16 which is made an integral part of a belt buckle and consists of a
17 blade with a length of at least 2¹/₂ inches.

18 (14) As used in this section, a “lipstick case knife” means a
19 knife enclosed within and made an integral part of a lipstick case.

20 (15) As used in this section, a “cane sword” means a cane,
21 swagger stick, stick, staff, rod, pole, umbrella, or similar device,
22 having concealed within it a blade that may be used as a sword or
23 stiletto.

24 (16) As used in this section, a “shobi-zue” means a staff,
25 crutch, stick, rod, or pole concealing a knife or blade within it
26 which may be exposed by a flip of the wrist or by a mechanical
27 action.

28 (17) As used in this section, a “leaded cane” means a staff,
29 crutch, stick, rod, pole, or similar device, unnaturally weighted
30 with lead.

31 (18) As used in this section, an “air gauge knife” means a
32 device that appears to be an air gauge but has concealed within it
33 a pointed, metallic shaft that is designed to be a stabbing
34 instrument which is exposed by mechanical action or gravity
35 which locks into place when extended.

36 (19) As used in this section, a “writing pen knife” means a
37 device that appears to be a writing pen but has concealed within it
38 a pointed, metallic shaft that is designed to be a stabbing
39 instrument which is exposed by mechanical action or gravity



1 which locks into place when extended or the pointed, metallic shaft
2 is exposed by the removal of the cap or cover on the device.

3 (20) As used in this section, a “rifle” means a weapon designed
4 or redesigned, made or remade, and intended to be fired from the
5 shoulder and designed or redesigned and made or remade to use
6 the energy of the explosive in a fixed cartridge to fire only a single
7 projectile through a rifled bore for each single pull of the trigger.

8 (21) As used in this section, a “shotgun” means a weapon
9 designed or redesigned, made or remade, and intended to be fired
10 from the shoulder and designed or redesigned and made or remade
11 to use the energy of the explosive in a fixed shotgun shell to fire
12 through a smooth bore either a number of projectiles (ball shot) or
13 a single projectile for each pull of the trigger.

14 (22) As used in this section, an “undetectable firearm” means
15 any weapon which meets one of the following requirements:

16 (A) When, after removal of grips, stocks, and magazines, it is
17 not as detectable as the Security Exemplar, by walk-through metal
18 detectors calibrated and operated to detect the Security Exemplar.

19 (B) When any major component of which, when subjected to
20 inspection by the types of X-ray machines commonly used at
21 airports, does not generate an image that accurately depicts the
22 shape of the component. Barium sulfate or other compounds may
23 be used in the fabrication of the component.

24 (C) For purposes of this paragraph, the terms “firearm,”
25 “major component,” and “Security Exemplar” have the same
26 meanings as those terms are defined in Section 922 of Title 18 of
27 the United States Code.

28 All firearm detection equipment newly installed in nonfederal
29 public buildings in this state shall be of a type identified by either
30 the United States Attorney General, the Secretary of
31 Transportation, or the Secretary of the Treasury, as appropriate, as
32 available state-of-the-art equipment capable of detecting an
33 undetectable firearm, as defined, while distinguishing innocuous
34 metal objects likely to be carried on one’s person sufficient for
35 reasonable passage of the public.

36 (23) As used in this section, a “multiburst trigger activator”
37 means one of the following devices:

38 (A) A device designed or redesigned to be attached to a
39 semiautomatic firearm which allows the firearm to discharge two
40 or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, “large-capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include ~~a~~ *any of the following*:

(A) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds ~~nor shall it include any~~.

(B) A .22 caliber tube ammunition feeding device.

(C) A tubular magazine that is contained in a lever-action firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in

1 the state prison, or in a county jail, not exceeding one year.
2 However, if the person presents proof that he or she lawfully
3 possessed the assault weapon prior to June 1, 1989, or prior to the
4 date it was specified as an assault weapon, and has since either
5 registered the firearm and any other lawfully obtained firearm
6 specified by Section 12276 or 12276.5 pursuant to Section 12285
7 or relinquished them pursuant to Section 12288, a first-time
8 violation of this subdivision shall be an infraction punishable by
9 a fine of up to five hundred dollars (\$500), but not less than three
10 hundred fifty dollars (\$350), if the person has otherwise possessed
11 the firearm in compliance with subdivision (c) of Section 12285.
12 In these cases, the firearm shall be returned unless the court finds
13 in the interest of public safety, after notice and hearing, that the
14 assault weapon should be destroyed pursuant to Section 12028.

15 (c) A first-time violation of subdivision (b) shall be an
16 infraction punishable by a fine of up to five hundred dollars
17 (\$500), if the person was found in possession of no more than two
18 firearms in compliance with subdivision (c) of Section 12285 and
19 the person meets all of the following conditions:

20 (1) The person proves that he or she lawfully possessed the
21 assault weapon prior to the date it was defined as an assault weapon
22 pursuant to Section 12276.1.

23 (2) The person is not found in possession of a firearm specified
24 as an assault weapon pursuant to Section 12276 or Section
25 12276.5.

26 (3) The person has not previously been convicted of violating
27 this section.

28 (4) The person was found to be in possession of the assault
29 weapons within one year following the end of the one-year
30 registration period established pursuant to subdivision (a) of
31 Section 12285.

32 (5) The person has since registered the firearms and any other
33 lawfully obtained firearms defined by Section 12276.1, pursuant
34 to Section 12285, except as provided for by this section, or
35 relinquished them pursuant to Section 12288.

36 (d) Firearms seized pursuant to subdivision (c) shall be
37 returned unless the court finds in the interest of public safety, after
38 notice and hearing, that the assault weapon should be destroyed
39 pursuant to Section 12028.



(e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, *or any federal law enforcement agency* for use in the discharge of their official duties.

(g) (1) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(2) *Subdivisions (a) and (b) shall not prohibit the delivery, transfer, or sale of an assault weapon to, or the possession of an assault weapon by, a sworn peace officer member of an agency specified in subdivision (f), provided that the peace officer is authorized by his or her employer to possess or receive the assault weapon. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 on or before April 1, 2002; in the case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 not later than 90 days after possession or receipt. The peace officer must include with the registration, a copy of the authorization required pursuant to this paragraph.*

(3) *Nothing in this section shall be construed to limit or prohibit the delivery, transfer, or sale of an assault weapon to, or the possession of an assault weapon by, a member of a federal law*

1 *enforcement agency provided that person is authorized by the*
2 *employing agency to possess the assault weapon.*

3 (h) Subdivisions (a) and (b) shall not prohibit the sale or
4 transfer of assault weapons by an entity specified in subdivision (f)
5 to a person, upon retirement, who retired as a sworn officer from
6 that entity.

7 (i) Subdivision (b) shall not apply to the possession of an
8 assault weapon by a retired peace officer who received that assault
9 weapon pursuant to subdivision (h).

10 (j) Subdivision (b) shall not apply to the possession of an
11 assault weapon, as defined in Section 12276, by any person during
12 the 1990 calendar year, during the 90-day period immediately after
13 the date it was specified as an assault weapon pursuant to Section
14 12276.5, or during the one-year period after the date it was defined
15 as an assault weapon pursuant to Section 12276.1, if all of the
16 following are applicable:

17 (1) The person is eligible under this chapter to register the
18 particular assault weapon.

19 (2) The person lawfully possessed the particular assault
20 weapon described in paragraph (1) prior to June 1, 1989, if the
21 weapon is specified as an assault weapon pursuant to Section
22 12276, or prior to the date it was specified as an assault weapon
23 pursuant to Section 12276.5, or prior to the date it was defined as
24 an assault weapon pursuant to Section 12276.1.

25 (3) The person is otherwise in compliance with this chapter.

26 (k) Subdivisions (a) and (b) shall not apply to the manufacture
27 by persons who are issued permits pursuant to Section 12287 of
28 assault weapons for sale to the following:

29 (1) Exempt entities listed in subdivision (f).

30 (2) Entities and persons who have been issued permits pursuant
31 to Section 12286.

32 (3) Entities outside the state who have, in effect, a federal
33 firearms dealer's license solely for the purpose of distribution to
34 an entity listed in paragraphs (4) to (6), inclusive.

35 (4) Federal military and law enforcement agencies.

36 (5) Law enforcement and military agencies of other states.

37 (6) Foreign governments and agencies approved by the United
38 States State Department.

39 (l) Subdivision (a) shall not apply to a person who is the
40 executor or administrator of an estate that includes an assault

1 weapon registered under Section 12285 or that was possessed
2 pursuant to subdivision (g) or (i) which is disposed of as authorized
3 by the probate court, if the disposition is otherwise permitted by
4 this chapter.

5 (m) Subdivision (b) shall not apply to a person who is the
6 executor or administrator of an estate that includes an assault
7 weapon registered under Section 12285 or that was possessed
8 pursuant to subdivision (g) or (i), if the assault weapon is possessed
9 at a place set forth in paragraph (1) of subdivision (c) of Section
10 12285 or as authorized by the probate court.

11 (n) Subdivision (a) shall not apply to:

12 (1) A person who lawfully possesses and has registered an
13 assault weapon pursuant to this chapter, *or who lawfully possesses*
14 *an assault weapon pursuant to subdivision (i)*, who lends that
15 assault weapon to another if all the following apply:

16 (A) The person to whom the assault weapon is lent is 18 years
17 of age or over and is not in a class of persons prohibited from
18 possessing firearms by virtue of Section 12021 or 12021.1 of this
19 code or Section 8100 or 8103 of the Welfare and Institutions Code.

20 (B) The person to whom the assault weapon is lent remains in
21 the presence of the registered possessor of the assault weapon, *or*
22 *the person who lawfully possesses an assault weapon pursuant to*
23 *subdivision (i)*.

24 (C) The assault weapon is possessed at any of the following
25 locations:

26 (i) While on a target range that holds a regulatory or business
27 license for the purpose of practicing shooting at that target range.

28 (ii) While on the premises of a target range of a public or private
29 club or organization organized for the purpose of practicing
30 shooting at targets.

31 (iii) While attending any exhibition, display, or educational
32 project that is about firearms and that is sponsored by, conducted
33 under the auspices of, or approved by a law enforcement agency
34 or a nationally or state recognized entity that fosters proficiency
35 in, or promotes education about, firearms.

36 (2) The return of an assault weapon to the registered possessor,
37 *or the lawful possessor*, which is lent by the same pursuant to
38 paragraph (1).

1 (o) Subdivision (b) shall not apply to the possession of an
2 assault weapon by a person to whom an assault weapon is lent
3 pursuant to subdivision (n).

4 (p) Subdivisions (a) and (b) shall not apply to the possession
5 and importation of an assault weapon into this state by a
6 nonresident if all of the following conditions are met:

7 (1) The person is attending or going directly to or coming
8 directly from an organized competitive match or league
9 competition that involves the use of an assault weapon.

10 (2) The competition or match is conducted on the premises of
11 one of the following:

12 (i) A target range that holds a regulatory or business license for
13 the purpose of practicing shooting at that target range.

14 (ii) A target range of a public or private club or organization
15 that is organized for the purpose of practicing shooting at targets.

16 (3) The match or competition is sponsored by, conducted under
17 the auspices of, or approved by, a law enforcement agency or a
18 nationally or state recognized entity that fosters proficiency in, or
19 promotes education about, firearms.

20 (4) The assault weapon is transported in accordance with
21 Section 12026.1 or 12026.2.

22 (5) The person is 18 years of age or over and is not in a class
23 of persons prohibited from possessing firearms by virtue of
24 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
25 the Welfare and Institutions Code.

26 (q) Subdivision (b) shall not apply to any of the following
27 persons:

28 (1) A person acting in accordance with Section 12286.

29 (2) A person who has a permit to possess an assault weapon
30 issued pursuant to Section 12286 when he or she is acting in
31 accordance with Section 12285 or 12286.

32 (r) Subdivisions (a) and (b) shall not apply to any of the
33 following persons:

34 (1) A person acting in accordance with Section 12285.

35 (2) A person acting in accordance with Section 12286 or
36 12290.

37 (s) Subdivision (b) shall not apply to the registered owner of an
38 assault weapon possessing that firearm in accordance with
39 subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

CORRECTIONS

Heading — Authors